

February 28, 2008

Ms. Nancy M. Morris, Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-0609

Re: Enhanced Disclosure and New Prospectus Delivery Option for Registered
Open-end Management Investment Companies [Release Nos. 33-8861, IC-
28064; File No. S7-28-07] (Nov. 21, 2007)

Dear Ms. Morris:

I commend the Commission and its staff for their thoughtful efforts aimed at improving mutual fund disclosure. The initiative reflects a laudable objective and marks an extension of previous efforts that have incrementally improved the quality of disclosure that fund investors receive. The proposal on the whole will make fund disclosure mandated under the securities laws clearer and more understandable for the average mutual fund investor. Although I generally favor many of the proposed changes contained in the rule proposal, I also believe, as described below, the rule proposal is flawed from a policy perspective principally because it ignores the relationship between layered mandated disclosure and freewriting on firm web sites.

My concerns have little to do with the core issues of clarity and understandability. The proposal's principal defect in my view is its failure to consider how these proposals (or more precisely the resulting disclosure) will operate in practice in conjunction with fund freewriting and sales literature. This issue is most pronounced on fund web sites where freewriting disclosure exists side-by-side with SEC-mandated disclosure (such as the statutory prospectus, shareholders reports, in some cases the statement of additional information, and in the future potentially the summary prospectus). This side-by-side arrangement from my perspective can lead to what I call the problem of "substituted disclosure" – freewriting disclosure in close proximity to mandated disclosure that fund investors unwittingly (due primarily to lack of sophistication and discernment) treat as being essentially fungible and, in some cases, even a preferred substitute because of its appealing presentation. My concern with the substituted disclosure phenomenon stems, as I explain below, from the Commission's unusual reliance on the ability of self-directed investors to navigate fund web sites. In my view, there is much that is likely to fall through the cracks for average investors in such an approach.

A. The Problem of Substituted Disclosure and Some Examples

As indicated above, the problem of substituted disclosure stems from the fact that average investors are very likely to be influenced by freewriting disclosure found in close proximity to SEC-mandated disclosure even if SEC-mandated disclosure is simplified.

